

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:10-CR-00238-RJC

USA

v.

MILTON EARL ADAMS

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ORDER

THIS MATTER is before the Court on defendant's pro se motion challenging the extent of a sentence reduction under Federal Rule of Criminal Procedure 35(b). (Doc. No. 743).

The defendant claims the government breached an agreement to recommend a specific reduction greater than that specified in its motion, (Doc. No. 740), which the Court granted on June 6, 2016, (Doc. No. 742: Order). The defendant has not alleged any statutory basis for relief; however, a person in custody may move the Court to vacate a sentence imposed in violation of the Constitution or laws of the United States under 28 U.S.C. § 2255.

IT IS, THEREFORE, ORDERED that the defendant's motion, (Doc. No. 743), is denied without prejudice to be re-filed as a motion to vacate under § 2255 within the one-year limitation period.¹

¹ Specifically, the Act provides:

A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

- (1) the date on which the judgment of conviction becomes final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

The Clerk of Court is directed to provide a copy of this Order with a § 2255 motion form to the defendant.

Signed: July 11, 2016

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge



(3) the date on which the right asserted was initially recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.